

Panaji, 28th January, 1988 (Magha 8, 1909)

SERIES I No. 44

OFFICIAL



GAZETTE

GOVERNMENT OF GOA

GOVERNMENT OF GOA

Department of Personnel

ORDER

2/7/76-PER (Vol. III) (Part)

In supersession of Order No. 5/3/74-PER (Vol. II) dated 30-12-1985, the following Departmental Promotion Committee is reconstituted for Group 'C' posts of Superintendents (outside the Secretariat) with immediate effect:—

1. Secretary (G.A.) — Chairman
2. Jt. Secretary (Personnel) — Member
3. Under Secretary (Personnel) — Member
4. Under Secretary (G.A.) — Member

By order and in the name of the Governor of Goa.

Smt. Prabha Chandran, Under Secretary (Personnel).

Panaji, 11th January, 1988.

Law (Legal and Legislative Affairs) Department

(Legislature Department)

LA/B/197/1988

dt. 16-1-1988

The following Bill which was introduced in the Legislative Assembly of Goa on 15-1-1988 is hereby published for general information in pursuance of the provisions of Rule-136 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

The Goa Buildings (Lease, Rent and Eviction) Control (Amendment) Bill, 1988

(Bill No. 2 of 1988)

A

BILL

to amend the Goa, Daman and Diu Buildings (Lease, Rent and Eviction) Control Act, 1968.

Be it enacted by the Legislative Assembly of Goa in the Thirty-Eighth year of the Republic of India as follows:—

1. *Short title, extent and commencement.*— (1) This Act may be called the Goa Buildings (Lease, Rent and Eviction) Control (Amendment) Act, 1988.

(2) It extends to the whole of the State of Goa.

(3) It shall come into force at once.

2. *Amendment of Section 30.*— In section 30 of the Goa, Daman and Diu Buildings (Lease, Rent and Eviction) Control Act, 1968 (hereinafter referred to as the "principal Act") after sub-section (2) the following proviso be inserted namely:—

"Provided that no order for recovery of possession under sub-section 1 of this section shall be passed unless the landlord provides a temporary alternative premises and gives an undertaking that the new building on its completion will be offered to the tenant who delivered possession in pursuance of an order under sub-section (1) for his reoccupation before the expiry of such period as may be specified by the Controller in this behalf:

Provided further that the alternative premises referred to in the proviso above shall be given in the case of a residential tenancy, within the city or village area as the case may be within which the building is situated and in the case of a non-residential tenancy, within a radius of 500 mts. of the commercial area where the building is situated and when such alternative premises within such commercial area are not available the landlord shall give sufficient compensation to the tenant for the loss suffered by him until the new building on its completion is offered to the tenant for his re-occupation:

Provided further that such compensation shall be fixed by the Rent Controller after giving notice to the landlord and after holding such enquiry as may be prescribed."

Statement of Objects and Reasons

There has been a growing tendency in the recent times to pull down buildings whose life otherwise would have been easily 75-100 years. As a result of this the tenant residing or carrying on business in a

building are left in great difficulty to search for alternative accommodation however, temporary it may be. Especially the traders find it all the more difficult and if they get an alternative accommodation in an altogether different locality they may lose their business. Besides, such pulling down of buildings in good conditions is merely done for earning profits and therefore need was felt that the tenants deserve to be protected by making it obligatory upon the landlords to arrange for temporary alternative accommodation for the tenants in case of residential tenancy within the city or village area where the building is situated and in the case of commercial tenancy within the radius of 500 mts. of the commercial area where the trade of the tenant is being carried and when such premises are not available to pay to the tenant sufficient compensation for loss suffered by him on account of any loss of his business.

By the proposed amendment no such obligation is sought to be imposed upon the landlord when the building is required by the landlord under sub-section 1 (a) for carrying out repairs, alterations or additions which cannot be carried out without the building being vacated as there is no profit motive behind the same.

Financial Memorandum

No financial implications are involved in this Bill.

Panaji,
28th December, 1987.

B. S. GAONKAR
M. L. A.

Assembly Hall,
Panaji,
8th January, 1988.

M. M. NAIK
Secretary to the Legislative
Assembly of Goa.

(Annexure to Bill No. 2 of 1988)

The Goa Buildings (Lease, Rent and Eviction) Control
(Amendment) Bill, 1988

The Goa, Daman and Diu Buildings (Lease, Rent and Eviction)
Control Act, 1969

(Act No. 2 of 1969)

30. *Recovery of possession by landlord for repairs, alterations or additions or for reconstruction.* — (1) Notwithstanding anything in this Act, on an application made by a landlord, the Controller may, if he is satisfied —

(a) that the building is reasonably and bonafied required by the landlord for carrying out repairs, alterations or addition which cannot be carried out without the building being vacated; or

(b) that the building consists of not more than two floors and is reasonably and bonafide required by the landlord for the immediate purpose of demolishing it and such demolition is to be made for the purpose of erecting a new building on the site of the building sought to be demolished, pass an order directing the tenant to deliver possession of the building to the landlord before a specified date.

(2) No order for recovery of possession under this section shall be passed, unless the landlord gives an undertaking that the building on completion of the repairs, alterations or additions, or the new building on its completion, will be offered

to the tenant, who deliver possession in pursuance of an order under sub-section (1) for his reoccupation before the expiry of such period as may be specified by Controller in this behalf.

(3) In the event of the landlord failing to make the offer in accordance with the said undertaking the Controller shall, on an application made by the tenant within one month after the expiry of the period specified under sub-section (2) make an order directing the landlord to deliver possession of the building to the tenant.

(4) In case the tenant, to whom the building or the new building, as the case may be, is offered under sub-section (2), by the landlord, does not want to occupy it, the landlord shall give notice of vacancy in writing to the Authorised Officer under sub-section (1) of Section 4.

(5) Nothing in this section shall entitle a landlord, who has recovered the possession of the building for repairs, alterations or additions or for re-construction to convert a residential building into a non-residential building, or a non-residential building into a residential building, unless such conversion is permitted by the Controller at the time of passing an order under sub-section (1).

Assembly Hall,
Panaji,
8th January, 1988.

M. M. NAIK
Secretary to the Legislative
Assembly of Goa

LA/B/198/1988

dt. 16-1-1988

The following Bill which was introduced in the Legislative Assembly of Goa on 15-1-1988 is hereby published for general information in pursuance of the provisions of Rule-136 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

The Goa, Mundkars (Protection from Eviction)
(Amendment) Bill, 1988

(Bill No. 3 of 1988)

A BILL

further to amend the Goa, Daman and Diu Mundkars
(Protection from Eviction) Act, 1975.

Be it enacted by the Legislative Assembly of Goa in the thirty-eighth year of the Republic of India as follows: —

1. *Short title and commencement.* — (1) This Act may be called the Goa Mundkars (Protection from Eviction) (Amendment) Act, 1988.

(2) It shall deemed to have come into force with effect from 12th March, 1976.

2. *Amendment of section 2.* — In section 2 of the Goa, Daman and Diu Mundkars (Protection from Eviction) Act, 1975 (hereinafter referred to as 'the principal Act') —

(i) the first proviso to sub-clause (b) of clause (i) shall be deleted;

(ii) in clause (p), the words "with or" appearing after the words "fixed habitation in a dwelling

house" and before the words "without obligation to render any service" shall be deleted;

(iii) for clause (q), the following shall be substituted, namely:—

(q) "person" includes a joint Hindu family, comunidade, temple, church, mosque or any other religious or charitable institution."

3. *Amendment to section 15.*—In section 15 of the principal Act,—

(i) for sub-section (3), the following shall be substituted, namely:—

"(3) the purchase price payable by the Mundkars for the dwelling house where the house is constructed by the bhatkar shall be as assessed by the Public Works Department keeping in view the rates prevailing as on 12th March, 1976 and for the land shall be at the rate of Rs. 2/- per sq. metre in the areas of local Panchayats and Rs. 5/- per sq. metre within the Municipal limits:

Provided that, when the house, hut or structure with its materials belong partly to the Mundkar and partly to the Bhatkar, the corresponding price in respect of the portion belong to the Mundkar shall be deducted and the balance shall be the purchase price.

(ii) the second proviso to sub-section (3) shall be deleted.

(iii) the sub-section (5) shall be deleted.

4. *Insertion of new section:*—After section 19 of the principal Act, the following new section shall be inserted, namely—

"19A. *Restriction of Sale of dwelling house and land by the bhatkar.*—(1) When a bhatkar intends to sell the dwelling house and or the land on which the dwelling house is standing, he shall give notice of his intention to the Mundkar and call upon him to state within 90 days of receipt of the notice whether he is willing to purchase the dwelling house and or the land.

(2) The Mundkar may within 90 days signify his readiness to purchase the same. If the mundkar fails, within the period specified, to signify his acceptance, the bhatkar shall be free to sell the land and or the dwelling house to any person.

(3) Notwithstanding anything contained in the preceding sub-section (2), the Mundkar who fails to purchase the land and/or the dwelling house, shall not, by reason thereof cease to be a Mundkar, but he shall continue as a Mundkar under the new bhatkar on the same terms, condition and other rights as before.

(4) Any sale, by the bhatkar in contravention of the provisions of this section made to any a person other than a Mundkar, shall be void and the Mamlatdar shall be competent to decide the question whether the sale is void or not.

Statement of Objects and Reasons

The Goa, Daman and Diu Mundkars (Protection from (Eviction) Act, 1975 was enacted to provide protection to the Mundkars against eviction from their dwelling houses and to grant them the rights to purchase such houses with sites at a reasonable price and to abolish the system of free service rendered by mundkars.

2. It will be evident from the preamble of the said Act that the intention of the Legislation was to abolish the system of free service rendered by mundkars. The definition of the term "mundkar" in clause (p) of section 2 of the Act provides for such service by the mundkar to the bhatkar. This is contrary to the intention of the legislation and therefore, the words "with or" appearing after "fixed habitation in a dwelling house" and before the words "without obligation to render any services" are required to be deleted. Amendment to this definition seeks to achieve this object.

3. The term "bhatkar" has been defined in clause (f) of section 2 of the Act as a person who owns the land on which the mundkar has dwelling house. Further, as per definition in clause (q) of the said section 2, the "person" includes a joint Hindu family. Many persons in Goa are having the dwelling houses on the Comunidade and Devasthan land. In the absence of the clear definition of the terms "bhatkar" and "person" different interpretations are given to these definition—one is that the 'person as defined does not include the Comunidade, Devasthan etc. depriving the right of these persons. It is, therefore, proposed to amend the definition of the term "person."

4. As said above, the one of the objects of enacting the Act was to grant the Mundkars the right to purchase the dwelling house at a reasonable price, but the mundkar has to pay the market value as per sub-section (3) of Section 15 of the Act except in cases provided in second proviso to the said sub-section (3) where the price payable is 20% of the market value. Therefore, in order to enable the Mundkars to purchase the dwelling houses and the land and to achieve the object of the Act, it is proposed to fix the price of the dwelling house and land at a reasonable rates to all the classes of the mundkars by amending suitably sub-section (3). The second proviso to the said sub-section (3) and sub-section (5) would be redundant and hence it is proposed to delete the same.

5. Although section 15 of the Act gives right to the Mundkar to purchase the dwelling house, it is not obligatory for the bhatkar to sell the dwelling house to the Mundkar and the Bhatkar is free to sell the dwelling house to any person since no such restriction are laid down in the Act. There are instances where the Bhatkars have sold the dwelling houses to the third persons and these new purchasers/bhatkars are trying to harass the Mundkars. In order to enable the Mundkars to purchase the dwelling house, it is necessary that the bhatkars are restricted from selling the dwelling house to third persons. It is, therefore, proposed to incorporate new section to achieve this object.

Financial Memorandum

No financial implications are involved due to the proposed amendment in the bill.

Panaji,
29th December, 1987.

RAVI NAIK
M.L. A.

Assembly Hall,
Panaji,
8th January, 1988.

M. M. NAIK
Secretary to the Legislative
Assembly of Goa.

(Annexure to Bill No. 3 of 1988)

The Goa, Mundkars (Protection from Eviction)
(Amendment) Bill, 1988

.....
The Goa, Daman and Diu Mundkars (Protection from Eviction) Act, 1975
.....

(1) (i) (b) three hundred square metres of land including the land on which the dwelling house is standing:

Provided that where the dwelling house is within the jurisdiction of a municipal council, the dwelling house shall include two hundred square metres of land including the land on which the dwelling house is standing:

Provided further that where there is on the appointed date in the property of the bhatkar, the house of the bhatkar or a dwelling house of one or more than one mundkar, and the total extent of the land is inadequate to provide each of them the extent indicated in this clause, the dwelling house shall include, in the absence of any agreement, the land apportioned in equal shares, as far as practicable, by the Mamlatdar.

(p) "mundkar" means a person who, with the consent of the bhatkar or the person acting or purporting to act on behalf of the bhatkar lawfully resides with a fixed habitation in a dwelling house with or without obligation to render any services to the bhatkar and includes a member of his family but does not include—

(i) a person paying rent to the bhatkar for the occupation of the house;

(ii) a domestic servant or a chowkidar who is paid wages and who resides in an out-house, house-compound or other portion of his employer's residence;

(iii) a person employed in a mill, factory, mine, workshop or a commercial establishment and is residing in the premises belonging to the owner or person in charge of such mill, factory, mine, workshop or commercial establishment, in connection with his employment in such mill, factory, mine, workshop or commercial establishment; and

(iv) a person residing in the whole or part of a house belonging to another person or in an out-house existing in the compound of the house, as a care-taker of the said house or for purposes of maintaining it in habitable condition.

(q) "Person" includes a joint Hindu Family;

15(3) The purchase price payable by the mundkar for his dwelling house shall be the market value of the dwelling house purchased and the improvement thereon, other than the improvement, if any, belonging to the mundkar:

Provided that, when the house, hut or any structure with its materials belong, wholly or partly, to the mundkar, the corresponding value shall be deducted from the market value and in such case the purchase price shall be the balance left after deducting the corresponding value from the market value:

Provided further that

(a) when a mundkar has been permitted to occupy the dwelling house by the bhatkar for the purpose of cultivation of, or for the purpose of watching and protecting, an agricultural land of the bhatkar and is actually rendering such service and continues to render such service with or without remuneration; or

(b) where a mundkar is an agricultural labourer or a village artisan; or

(c) where the annual income of a mundkar, being a person belonging to Scheduled Castes or the Scheduled Tribes and not falling under clause (a) or clause (b), from all sources does not exceed rupees three thousand six hundred;

then, the purchase price payable by such mundkar and a member of his family shall be twenty per cent of the market value payable.

(5) The market value of the dwelling house, shall be decided by the Mamlatdar, after making such inquiry as he deems necessary and in the prescribed manner.

Assembly Hall,
Panaji,
8th January, 1988.

M. M. NAIK
Secretary to the Legislative
Assembly of Goa

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Notification

LA/A/151/88

In pursuance of Rule-263 of the Rules of Procedure and Conduct of Business of Goa Legislative Assembly the following documents which were laid on the Table of the Legislative Assembly of Goa on 12th January, 1988 are declared to be published for general information.

- 1) Finance Accounts of the Government of the Union Territory of Goa, Daman and Diu for the year 1985-86.
- 2) Appropriation Accounts of the Government of Union Territories of Goa, Daman and Diu for the year 1985-86.
- 3) Report of the Comptroller and Auditor General of India for the year 1985-86 Government of the Union Territory of Goa, Daman and Diu.

M. M. NAIK
Secretary, Legislature

Secretariat,
Panaji, 12th January, 1988.